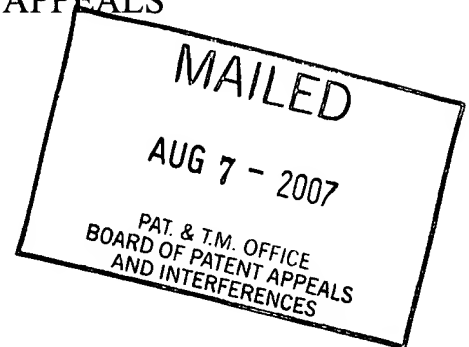


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH BACH

Application No. 09/327,085



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 30, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On June 7, 2006, an Examiner's Answer was mailed, it appears that the Examiner's Answer cites "August et al. (US 7,389,055)" as prior art of record. However, under the heading "Claim Rejections – 35 U.S.C. § 103" page 5, the examiner references August et al. (US 6,389,055). A clarification of which reference is the prior art relied upon in the rejection is required.

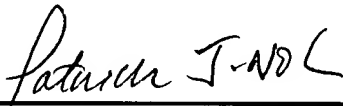
In addition, the examiner maintains claims 3 and 4 under grounds of rejection. However, on May 31, 2002, the appellant filed amendment canceling claims 3 and 4, which were considered and entered by the examiner. The examiner's answer is deficient because the examiner did not remove the canceled claims from the grounds of rejection.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to clarify which references are to be considered as the prior art;
- 2) to vacate the Examiner's Answer mailed June 7, 2006, and issue a revised Examiner's Answer for the reasons set forth above; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PN/dal

Application No. 09/327,085

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